

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

ELLIOTT D. GOODIN,

Plaintiff,

v.

DR. GREGORY BAHDER and DR.  
DODDS SIMAGEN,

Defendants.

NO. 2:20-CV-0017-TOR

ORDER DENYING PLAINTIFF'S  
MOTION FOR RECONSIDERATION

BEFORE THE COURT is Plaintiff's construed Motion for Reconsideration (ECF No. 37). This matter was submitted for consideration without oral argument. The Court has reviewed the record and files herein, the completed briefing and is fully informed. For the reasons discussed below, Plaintiff's Motion for Reconsideration (ECF No. 37) is **DENIED**.

**BACKGROUND**

This case concerns Plaintiff's allegations that Defendants administered an antipsychotic medication to Plaintiff to which he is allergic in November 2018 and

1 June 2019 while Plaintiff was committed at Eastern State Hospital. ECF No. 11.  
2 On August 5, 2020, Plaintiff submitted five “amendments” containing letters and  
3 various documents relating to his commitment. ECF Nos. 29-33. Defendants filed  
4 a motion to strike the five amendments on the grounds that they were “immaterial  
5 and impertinent.” ECF No. 34 at 1. The Court granted Defendants’ motion  
6 finding Plaintiff’s amendments did not contain information relevant to the  
7 allegations in the Complaint.

8 Plaintiff sent a letter to the Court on October 15, 2020 referencing “4  
9 documents” and asking the Court “to reconsider these documents not be stricken.”  
10 ECF No. 37 at 1. It is unclear to which four documents Plaintiff is referring, as he  
11 originally filed a total of five. *See* ECF Nos. 29-33. The Court liberally construes  
12 Plaintiff’s October 15th letter as a Motion for Reconsideration. Defendants object  
13 to the Motion on the grounds that it is untimely, and that Plaintiff has failed to  
14 demonstrate reconsideration is appropriate. Plaintiff filed eight additional  
15 documents on November 3, 2020 to support his Motion for Reconsideration. ECF  
16 Nos. 41-42.

## 17 DISCUSSION

18 A motion for reconsideration of a final judgment may be reviewed under  
19 Federal Rule of Civil Procedure 59(e) (motion to alter or amend a judgment) or  
20 Rule 60(b) (relief from judgment). *Sch. Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255,

1 1262 (9th Cir. 1993). Where a final judgment has not been entered, the Court has  
2 discretion to reconsider under Rule 54(b), which allows courts to revise “any order  
3 or other decision, however designated, that adjudicates fewer than all the claims or  
4 the rights and liabilities of fewer than all the parties . . . before the entry of a  
5 judgment . . . .” Fed. R. Civ. P. 54(b); *Los Angeles v. Santa Monica Baykeeper*,  
6 254 F.3d 882, 887 (9th Cir. 2001). Additionally, the Court has inherent common-  
7 law authority “to rescind an interlocutory order over which it has jurisdiction.” *Id.*  
8 While both Rule 54(b) and the common law provide distinct authority under which  
9 a court may reconsider its rulings, the analysis under both appears to be the same.  
10 *Motorola, Inc. v. J.B. Rodgers Mech. Contractors*, 215 F.R.D. 581, 583 (D. Ariz.  
11 2003).

12 Here, a final judgment has not been entered; thus, Rule 54(b) or the common  
13 law is the applicable authority. Some courts have adopted local rules specifically  
14 addressing the legal standard that applies to reconsideration under Rule 54(b) or  
15 the common law. *See, e.g., Motorola, Inc.*, 215 F.R.D. at 583-86 (D. Ariz. 2003)  
16 (collecting cases). This Court has not adopted such a rule. Instead, the Court’s  
17 analysis is guided by the law of the case doctrine as applied by the Ninth Circuit.  
18 *See Milgard Tempering, Inc. v. Selas Corp. of Am.*, 902 F.2d 703 (9th Cir. 1990).  
19 Under the law of the case doctrine, reconsideration may be appropriate in cases  
20 that “involve an intervening change in the law, the availability of new evidence, or

1 the need to correct a clear error or prevent manifest injustice.” *Seiko Epson Corp.*  
2 *v. Glory S. Software Mfg., Inc.*, 684 F. Supp. 2d 1231, 1242 (D. Or. 2010). As a  
3 rule, a court should be loath to revisit its own decisions in the absence of  
4 extraordinary circumstances such as where the initial decision was “clearly  
5 erroneous and would work a manifest injustice.” *Christianson v. Colt Indus.*  
6 *Operating Corp.*, 486 U.S. 800, 817 (1988). Nonetheless, whether to grant a  
7 motion for reconsideration is within the sound discretion of the court. *Navajo*  
8 *Nation v. Confederated Tribes and Bands of the Yakima Nation*, 331 F.3d 1041,  
9 1046 (9th Cir. 2003).

10 Plaintiff has not identified an intervening change in the law, submitted any  
11 new evidence, or demonstrated the Court committed clear error that was manifestly  
12 unjust. The majority of the additional documents submitted by Plaintiff on  
13 November 3, 2020 have already been filed in this matter. *See* ECF Nos. 11 at 6; 29  
14 at 2; and 11 at 3-5. The new documents (ECF No. 41 at 2; at 6-8) do not contain  
15 any new information that was not available at the time of the challenged Order.  
16 *Hawaii Stevedores, Inc. v. HT & T Co.*, 363 F. Supp. 2d 1253, 1269 (D. Haw.  
17 2005) (“[R]econsideration may not be based on evidence and legal arguments that  
18 could have been presented at the time of the challenged decision.”) (citation  
19 omitted). Plaintiff simply disagrees with the Court’s prior order striking his  
20

1 amendments, which is “an insufficient basis for reconsideration.” *Id.* Thus,  
2 Plaintiff has not provided any grounds upon which the Court can grant his motion.

3 This is not the time for Plaintiff to submit evidence supporting his  
4 allegations. That evidence can be submitted with an appropriate motion for  
5 summary judgment, in response to or opposing summary judgment by opposing  
6 counsel, or at the time of trial.

7 **ACCORDINGLY, IT IS HEREBY ORDERED:**

8 Plaintiff’s Motion for Reconsideration (ECF No. 37) is **DENIED**.

9 The District Court Executive is directed to enter this Order and furnish  
10 copies to counsel.

11 **DATED** November 9, 2020.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE  
United States District Judge